



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

JUN 12 2015

**OFFICE OF
COMPLIANCE AND ENFORCEMENT**

Reply to OCE-133

NOTICE OF VIOLATION

Mr. Michael Jordan
Director
Bureau of Environmental Services
City of Portland
1120 SW 5th Avenue, Room 1000
Portland, Oregon 97204

Re: Portland, Oregon
Municipal Separate Storm Sewer System
NPDES Permit Number: ORS108015
Oregon Permit Number: 101314

Dear Mr. Jordan:

On April 15-19, 2013, representatives from the United States Environmental Protection Agency, Region 10 (EPA), conducted an inspection of the City of Portland Phase I Municipal Separate Storm Sewer System (MS4), including the Portland's stormwater management program (SWMP), to evaluate compliance with Oregon's Phase I Municipal Stormwater Permit, Permit Number ORS108015 (Permit). The Permit establishes minimum requirements for an MS4 SWMP to address the water quality impacts from stormwater and allowable non-stormwater discharges. The EPA inspection included a review of documents, interviews with County program managers and staff, and field verification inspections. I would like to express my appreciation for your time and cooperation during the inspection. A copy of the inspection report is enclosed with this letter. The appendices are numerous and very long, please contact Robert Grandinetti, below, for access to the appendices.

A review of the inspection report and available files revealed the following violation and areas of concern:

Violation

Illicit Discharge Detection and Elimination Procedures

Schedule A.4.a.vii of the Permit states:

“Once the source of an illicit discharge is determined, the co-permittee must take appropriate action to eliminate the illicit discharges, including an initial evaluation of the feasibility to eliminate the discharge, within 5 working days. If the co-permittee determines that the elimination of the illicit discharge will take more than 15 working days due to technical, logistical or other reasonable issues, the co-permittee must develop and implement an action plan to eliminate the illicit discharge in an expeditious manner. The action plan must be completed in 20 working days of determining the source of an illicit discharge. In lieu of developing and implementing an individual action plan for common types of illicit discharges, the co-permittee may document and implement response procedures, a response plan or similar document. The action plan, response procedures, response plan or similar document must include a timeframe for elimination of the illicit discharge as soon as practicable.”

Based on information provided during the inspection and follow-up information request, EPA determined that the Portland's Bureau of Environmental Services (BES) Illicit Discharge Elimination Program (IDEP) did not follow procedures in an expeditious manner to eliminate illicit discharges found at Outfalls 22 and 53B. During a routine inspection, BES staff noticed a petroleum odor emanating from Outfall 22. Further investigation revealed an oily sheen over some sediment inside the manhole just upstream of Outfall 22. No supporting documentation was provided to show that BES cleaned or eliminated the discharge at the manhole or made a definitive determination of the source. A review of BES's TRAC database also noted elevated levels of E. coli at Outfall 53B. No attempt was made by BES staff to clean or eliminate the discharge by determining the source of the elevated E. coli levels. While BES personnel identified the likely presence of illicit discharges at Outfalls 22 and 53B, they did not follow procedures to eliminate the illicit discharge in an expeditious manner. This is a violation of Schedule A.4.a.vii. of the Permit.

Areas of Concern

Construction Site Runoff Control

1. Schedule A.4.c.iv of the Permit requires Portland to:

Describe site plan review procedures to ensure that stormwater BMPs are appropriate and address the construction activities being proposed. At a minimum, construction site erosion prevention and sediment control plans for sites disturbing one acre or greater must be consistent with the substantive requirements of the State of Oregon's 1200-C permit site erosion prevention and sediment control plans.

During a discussion with the NEIC inspection team on April 16, 2013, Portland personnel stated that they perform the following inspections: preconstruction inspections, inspections performed during routine building code inspections, and permanent erosion control inspections. Inspections are not performed, however, as prescribed by Portland's Erosion and Sediment Control Manual (ESCM), which lists numerous possible activities that must be addressed at various construction stages. Portland BES inspectors perform erosion control inspections during building code inspections, but not as suggested in the ESCM. Portland stated that inspection checklists are not used during the project phase completion inspections. Therefore, Portland was unable to provide documentation that all erosion control

sequencing milestones were being met. The concern is that without the checklists there is not enough documentation to show that all of the inspections were being performed as prescribed by the ESCM.

2. Schedule A.4.c.v of the Permit states:

Co-permittees must perform on-site inspections in accordance with documented procedures and criteria to ensure that the approved erosion prevention and sediment control plan is properly implemented. Inspections of construction sites must include disturbed areas of the site, material and waste storage areas, stockpile areas, construction site entrances and exits, sensitive areas, discharge locations to the MS4, and, if appropriate, discharge locations to receiving waters. Inspections must be documented, including photographs and monitoring results as appropriate.

During a construction site inspection with Portland inspectors, the EPA inspectors noted that Portland does not have an erosion and sediment control inspection form. Rather, Portland's inspectors document erosion and sediment information on general building code inspection forms that do not have information specific to erosion and sediment control. Further, EPA inspectors noted inconsistencies in how Portland conducts and documents inspections, including that some inspectors are not trained, some inspectors do not follow up on inspections within a prescribed period of time, and that some inspectors normally do not take photographs. The concern is that Portland's inspectors vary in knowledge, procedures, and enforcement response, and that documenting erosion and sediment control issues per Permit requirements are not receiving the appropriate attention.

3. Schedule A.4.c.vi requires Portland to:

Describe site plan review procedures to ensure that stormwater BMPs are appropriate and address the construction activities being proposed. At a minimum, construction site erosion prevention and sediment control plans for sites disturbing one acre or greater must be consistent with the substantive requirements of the State of Oregon's 1200-C permit site erosion prevention and sediment control plans.

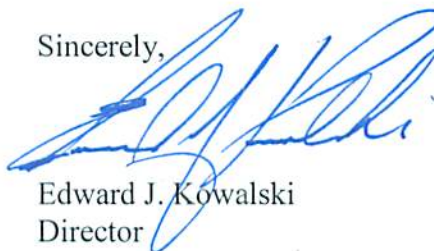
On April 16, 2013, the EPA inspection team held a discussion with Portland's personnel. The EPA inspection team asked how construction personnel address all the requirements in the ESCM if they do not have a checklist. Construction personnel stated that they "do not use a checklist to review plans." Rather, construction personnel use mentorship and team oversight to confirm requirements are met and standards are measured. The concern is that Portland's decision not to use checklists or standard operating procedures leads to inconsistent application and an inability to ensure that the erosion and sediment control plans cover all the requirements listed in the ESCM and Oregon's 1200-C permit.

It is EPA's goal to ensure facilities comply fully with their permits, but the ultimate responsibility rests with the facility. We urge you to take the steps necessary to address these violations and concerns and to ensure that all aspects of your operation are conducted in accordance with all applicable federal, state,

and local requirement. Please respond and let EPA know what steps Portland is taking to address the violation, and the areas of concern.

If you have any additional questions concerning this matter, please call Robert Grandinetti, NPDES Compliance Officer, at (509) 376-3748.

Sincerely,



Edward J. Kowalski
Director

Enclosures

cc: Ms. Patrice Mango
MS4 Coordinator
City of Portland

Ms. Lisa Cox
MS4 Coordinator
Oregon Department of Environmental Quality